

Approved as Submitted: January 14, 2004

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – DECEMBER 17, 2003**

CALL TO ORDER

Mayor/Chairperson Kennedy called the special meeting to order at 5:05 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Chang, Sellers, Tate; and Mayor/Chairperson Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council Action

WORKSHOP:

1. SERVICE LEVEL STANDARDS

City Manager Tewes presented the staff report, indicating that the Council adopted a series of goals at its annual goal setting retreat held at the beginning of the year. A group of these goals related to the day to day operations, one of which staff was requested to expand the use of performance measures, including customer satisfaction measures. He indicated that from time to time, staff reported to the Council with quarterly performance measure reports. The Council requested that staff schedule a workshop on service level standards to be adopted by the Council. He said that whatever was intended in February 2003, a lot of things have changed that may impact how the Council may wish to pursue the workshop to be held this evening. In June, the Council adopted a budget that predicted an operation deficit to support existing services. At the beginning of the year, the City had a healthy reserve and had the opportunity to develop a long range plan for how the City might adjust the mix of services to be provided to the community. He indicated that staff is scheduled to return with a five year plan for Council consideration in January 2004. He stated that a lot of things have taken place since the adoption of the budget all of which affect the City's finances which require Council discussion of priorities. He informed the Council that staff is not proposing that it discuss funding, but instead talk about the kinds of services that it believes should be provided to the community and to what levels. He said that staff provided the Council with three pieces of information: 1) an example of a comprehensive set of service level standards adopted as a model by the State of Pennsylvania and published by ICMA; 2) an inventory of existing service level standards to the extent that they have been documented in Morgan Hill. He indicated that the City does not have a formal service level standard adoption process. Staff identified items that might constitute service level standards for Council consideration. 3) Classification of city services. He stated that this document begins to outline what staff believes are priorities for Council consideration. Staff believes that this information is useful without talking about dollars. Once

staff knows the Council's priorities, staff can prepare plans and budgets to deploy human/financial resources to those items that are most important; reallocating in accordance with the Council's priorities for the services to be provided to the community. He stated that there might be two issues presented relating to service level standards; one being performance measures. He said that the Council has directed staff to perform a rudimentary performance measure system. He said that the City has a straight forward approach to capturing and reporting the performance measurement data. To the extent that the Council would like to do more of this, the Council may wish to use these standards. He said that it would be helpful if the Council set priorities for future financial and resource planning. He informed the Council that department heads and other staff members were in attendance to answer questions.

Mayor Kennedy stated that it was his recollection that at the Council's January 2003 goal setting workshop, Council Member Chang raised the issue of performance level standards as it relates to the police department and fire services. It was also his belief that Council Member Carr was also interested in these service standards. He requested that they identify their thoughts on how they believe the Council should proceed with this workshop.

Council Member Carr said that he was interested in understanding the services that are being supplied today in a way that the Council can have a conversation about how these services are supplied and the expectations on how the services are set and met. He felt that this was one of the most important jobs the Council has to do; noting that in the past three years, the Council has not sat down to discuss expectations. In light of the budget situation today, it needs to be stated what areas of services and priorities in policies are important.

Council Member Chang was pleased to see that staff identified the classification of City services in terms of services that are critical and less critical. She felt that this would be a good starting point as it was her understanding that the City may be in a \$2-3 million deficit next year. She felt that there has to be a reduction in services as she did not believe that the City would be able to raise \$2-3 million in revenue. She felt that the City Manager would return with a recommendation on what should be proposed for future budgets. She stated that she sees some cuts taking place. She felt that reductions should be in service areas where they are not noticed.

Council Member Tate said that the table of "critical and less critical services" was a good education and gives food for thought. He recommended that the Council reach consensus in going through the table, including discussions of why some items were considered critical or less critical.

City Manager Tewes said that in looking at the critical and less critical table, it was not meant to state that a work item was not critical nor needed. He said that all services provided by the City are appreciated by one group of the community or another. Staff did not mean to imply that by placing a work item on the less critical column that no one would notice the services and that it would go away. He stated that the department heads were asked to make a judgment of what they believe were critical/and less critical work items.

Mayor Pro Tempore Sellers felt that the Council needs to look at these with two different sets of criteria. The Council would need to agree/disagree with what has been identified as critical and less critical work

items. It would be imperative for the Council to look at the items in terms of what their loss would mean in the larger context. He said that there may be some items that are not as critical but that if funding is lost for them, the implications would be far more significant. He noted that the Council faced a similar situation in 1992 when it had to make massive cuts; noting that parks and recreation was placed on the less critical list. He said that it took a decade to get these services back. He said that there may be some less critical things that could be eliminated that may be easy but may have long term negative implications. He wanted to make sure that the Council makes good decisions should cut backs be necessary because they might not be the best for the long term versus what would be easiest or best to implement in the next year or two.

Mayor Kennedy stated that prioritization of City services would be important. He indicated that all that the Council can do in this workshop is establishing a process to move forward. He recommended that the Council take some time to discuss performance standards. He felt that the ICMA document is a good one to start with in terms of performance standards. He recommended that each department mark up their sections and return with proposed changes so that the Council can use this as input that would ultimately lead to a new set of performance standards. With respect to the classification of City services, he felt that this would be an appropriate discussion for a workshop as the Council gets into goal setting/prioritization of City goals. He recommended that the Council establish a process that allows it to move forward when the Council conducts its goal setting workshop.

Council Member Chang felt that the “critical and less critical services” needs to be reviewed. Once you get into the details of whether or not the jobs are being accomplished, you would go into the service standards. She recommended that the Council decide which services are needed and then determine the appropriate response time.

Mayor Pro Tempore Sellers stated that the bigger picture needs to be reviewed. He felt that the Council needs to decide whether police services are off limits or whether there are some areas of police services that need to be cut. The Council needs to determine how this compares with other departments in other areas. He said that area of services within each department needs to be reviewed.

Council Member Tate recommended that the Council look at the table of City services to identify which are of priority. He recommended that the Council look at critical services and then review the response standards at a later date.

Council Member Carr said that when the Council discussed service level standards last year at the goal setting meeting, it was his thought that the Council should be setting the service level standards in order to quantify how the City is doing. After looking back on the level of services, the Council could state that it accomplished a certain level of services desired. He felt that this discussion is different today because of the budget situation. He recommended that the Council start the process with reviewing the classification of city services put together by staff as it would be the most beneficial thing the Council can do at this time. Putting together some service level standards to be able to compare the City with is something that should be done as well. However, he did not believe that the Council can undertake both discussions this evening based on the time allocated. He felt that the classification of city services should be the focus of this evening’s discussion. The Council needs to indicate whether it agrees with

the list of critical/less critical services as it would be helpful to staff as it puts together a five year plan that would be reviewed by the Council in January.

Mayor Kennedy said that if you look at service level standards as contained in the ICMA document, they talk about certain standards for various departments. If the Council starts with going through the document of priorities, he felt that the Council may not have the full picture. He advocated for the bigger picture of establishing broad general standards that should be met first. He felt that the Council could spend more time on this discussion at the Council's goals setting workshop. He said that it was not his intent to go into either of these items in any significant detail as there is not enough time to do so but rather to talk about the process or the philosophy of the two documents.

Mayor Pro Tempore Sellers felt that it was difficult to go through each department's services this evening, making sure that services fit together.

City Manager Tewes said that the staffing level under the police department is about the same level that it was before the cuts were made in the early 1990s.

Council Member Chang recommended that the Council review each department's documentation. She said that the discussion should be one that identifies services that do not need to be conducted should the Council not have funding to perform current service levels.

Council Member Carr recommended that the Council provide staff with direction this evening.

Business Assistance and Housing Services (BAHS)

Council Member Carr noted that staff has an "auto dealership strategy" listed under critical services. He inquired whether staff listed this under critical services due to the fact that the Council was working on the Walnut Grove PUD or whether there were other things that the City was actively pursuing in this strategy.

Business Assistance and Housing Services Director Toy said that in terms of the auto dealership strategy, the one of key importance is the Walnut Grove PUD.

Council Member Chang inquired why staff was placing the implementation of the economic development strategy of Walnut Grove into the less critical services category. She stated that she considered this as being critical at this time.

Mayor Pro Tempore Sellers stated that he was inclined to place the implementation of the economic development strategy on the critical services side and to some degree the downtown plan as it would make long term sense to do so. He said that it is tempting to cut back on economic development when you are in a down period as it may sound superfluous. He felt that this was the time to focus on economic development more.

Council Member Chang did not see the preparation of the bi-annual vacancy survey reports as being critical.

City Manager Tewes stated that should the Council agree with Council Member Chang that the vacancy survey, required by ordinance, is not critical, staff would return with an ordinance amendment to not require the submittal of the survey to the Planning Commission and the City Council relating to condominium conversions.

Mayor Pro Tempore Sellers felt that it would require more work on the part of staff to amend the ordinance to eliminate the bi-annual vacancy rate reports. He felt that these were the kinds of work items the Council needs to be aware of (minimizing the amount of staff work that may be counter productive).

Council Member Tate inquired whether the City could be more selective with the ombudsman services in terms of return.

Mayor Pro Tempore Sellers said that it his goal for BAHS staff to protect economic development as it will be needed down the road. He felt that the City needs to do what it can in the downtown as it is ancillary to economic development, and move forward with housing projects that are already underway.

Mayor Kennedy recommended that Council members give each department suggestions and that the Council get into more details at the goal setting workshop.

Council Member Tate felt that the Downtown Plan was at a critical stage in terms of getting it documented. He felt that the Albertson shopping center study is further out and does not need to be considered as critical at this time. He felt that the downtown plan was vital to the overall economic development.

Mayor Kennedy agreed with Council Member Tate's comments.

Council Member Carr said that some of the projects listed under "management of public facilities" are coming near completion and will come off the list, indicating that some of the projects are not a priority to him while others are. The implementation of an economic development strategy should be listed under critical services. He would not list the implementation of an auto dealership as a critical service. He felt that the overall economic development strategy such as facade grants falls within critical services.

In response to Council Member Chang's question, Mr. Toy indicated that all of the funding for BAHS comes from Redevelopment Agency funding and does not impact the General Fund.

City Manager Tewes said that to the extent that economic development was to be financed by the RDA it would build the City's tax base which triggers revenues and supports general services.

Mayor Kennedy stated that he would like to reserve his comments until he has more time to talk about each specific area with respect to BAHS. He agreed with the comments made about the two implementation issues. He felt that the economic development strategy and the downtown plan should be listed under critical services.

City Clerk's Office

Mayor Pro Tempore Sellers said that most of the services listed under the City Clerk's office are fairly cut and dry. If the City should be looking at cut backs in the City Clerk services, he felt that the first thing that needs to be cut is Council member services. He stated that he appreciated the listing of assisting with travel arrangements for Mayor and Council members. He said that this was not on his list of critical services. He felt that travel should be the first thing cut and assistance with travel arrangements should be placed on the less critical list. He noted that there is a lot that the Council does that takes a lot of City Clerk staff time and that these should be the first items to be eliminated.

Council Member Tate indicated that he moved Council assistance over to the less critical column as suggested by Mayor Pro Tempore Sellers.

Council Member Carr said that a lot of services performed by the City Clerk's office are legally required and are critical services. He was not sure what to do with the recruitment of boards and commissions as this task seems to take a lot of time.

Council Member Chang recommended that the Council review/discuss whether all boards and commissions are necessary.

City Manager's Office.

Mayor Pro Tempore Sellers said the services of the City Manager' Office are straight forward items. He noted that implementing Council policy is referenced as well as overseeing the Redevelopment Agency. He said that it might be helpful to identify interaction/communication with Council. He said that it is a separate activity in keeping up with Council members, including Council committees.

Council Member Chang addressed "participate in community-based organizations" such as the day worker center and the Morgan Hill Community Health Foundation. She indicated that it is her hope that the work on the dayworker center will be completed in a couple of months. Therefore, this is a less critical work item. She indicated that the Morgan Hill Community Health Foundation is a Council goal. Unless the Council changes this goal, it should be retained under critical services.

Council Member Tate stated that it was a goal to get the Morgan Hill Community Health Foundation to become self-sufficient.

Council Member Carr stated that the Morgan Hill Community Health Foundation was a Council goal in the 2003 calendar of goals. He said that the Council will need to determine whether it is still a goal to make the Foundation self-sufficient. He felt that this needs to be placed on the less critical services list

unless the Council makes medical services a Council goal. He expressed concern with communication items. He wanted to make sure that the City presents the message that government is open as much as possible. The City should be communicating the difficulty it is experiencing and that should there be any loss of City services, it would be very important to communicate this fact. He expressed concern but understood why they are listed under less critical services.

Mayor Kennedy concurred that in tough times, communication is extremely important and that it is not something that should be cut back. He felt that the City was conducting a bare-bones program in terms of communication and that he would not support cutting back on communications.

Council Member Tate said that many of the items listed are in terms of degrees and that it is hard to state that they are more or less critical. He stated that the City could prepare City Visions every other month. He felt that the Council needs to look at the degree to what some of the items listed are to be done. He noted that each department has a workplan and that the City Manager's office is gathering the reporting of the information from the various departments. He felt that it was critical to have workplans in order for staff members to know what they are working on. However, he did not believe that it was critical to report on the status of workplans and spend a lot of time analyzing them.

Council Member Chang felt that it was important to report out the progress of workplans to see if they are being accomplished. She felt that it was the responsibility of the City Manager to ensure that work items are being accomplished.

Mayor Kennedy noted that there is a question of whether it was critical for a progress report on the workplan to be brought to the City Council.

Council Member Tate did not object to not having workplan progress reports returning to the Council as long as staff has work to do and the work is being accomplished.

City Manager Tewes said that not bringing workplan progress reports to the Council would reduce the work effort and the amount of resources relating to this function.

Council Member Chang inquired as to what is being estimated in terms of less critical services as part of the City Manager's workplan.

City Manager Tewes said that some of the less critical services are workplan related items and some are direct allocations that affect direct expenditures. He said that should City Visions be conducted differently or produced less often, thousands of dollars could be saved. He noted that the City has a hiring freeze in place and that through attrition; the City needs to make sure that it reorganizes the critical services. Therefore, the City will need to deploy its resources to the critical services organization-wide.

Mayor Kennedy inquired as to the City Manager's thoughts on what would be less critical, overall, from the City Manager's office.

City Manager Tewes said that the less critical services relate to three areas: communication vehicles, analytical work, and solid waste work items.

Assistant to the City Manager Eulo said that less staff work would be required if the City implemented a volume-based solid waste rates.

Community Development Department (CDD)

Council Member Chang stated that it was her belief that the CDD was a break even department. She inquired whether this department was breaking even.

Director of Community Development Bischoff responded that the CDD is not currently breaking even. However, the CDD fees were adjusted to achieve full cost recovery in the building division and public works department. In planning, a decision was made to increase fees to achieve full cost recovery over a number of years. Therefore, the planning division is not completely full cost recovery. He clarified that fees for CDD are coming from a community development fund and not from the general fund.

Finance Director Dilles said that there were two increases in development processing fees for planning and engineering approved by the Council with the first increase to be full cost recovery but limited to a 20% increase. He said that staff would be returning to the Council with information relating to the need to increase fees further. He said that planning is short several thousands of dollars.

Council Member Chang inquired whether the elimination of the less critical services would affect the planning division's budget.

Mr. Bischoff clarified that very little, if any of the money, comes from the general fund for long range planning. However, significant amount of money would be spent for long range planning on such as the Downtown Plan, and the Urban Limit Line/Greenbelt Study, and that a significant amount of staff time is associated with these types of projects. He has divided studies into long range planning and plan implementation. Whether there are critical or less critical services in the CDD, there would be a negligible affect on the general fund.

Mayor Kennedy noted there were a couple of items that were listed in the less critical column: code enforcement and building maintenance. He stated that he would like to see some effort in both of these areas and not totally eliminate code enforcement or preventative maintenance/maintenance activities.

Mayor Pro Tempore Sellers recommended that code enforcement be moved to the critical services column because it was important for the public to know that the City believes that code enforcement is important to a life safety situation.

Council Member Carr noted that the CDD generates a lot of money to cover its cost. However, the work items from this department effects other departments and adds cost to those departments. He felt that this is the issue that the Council should be concerned about. He did not believe that the CDD is off the hook because their costs are covered. If long range planning is conducted and the City implements all

study recommendations, it will require the assistance/time from the City Attorney, public works, police department as well as other departments. The City may be able to cover these costs today because a fee is charged for services. However, to implement recommendations would cost money. He felt that the City needs to be thinking about this in a different way. He recommended that the Council keep in mind what the City Manager said about the less critical services side. He stated that no one is suggesting that these services be eliminated. The Council was trying to decide which are critical and which services are less critical. He did not believe that it should be assumed that the less critical service items would be eliminated.

Finance

Finance Director Dilles addressed the SB 90 mandated costs.

Mayor Kennedy said that it may be the Council's direction that is driving some of the less critical services such as accepting credit cards over the telephone, identifying addresses for out of town property owners, etc. Staff may wish to return with a recommendation to delete these less critical services.

Finance Director Dilles indicated that the City is providing a service to the public by accepting credit card charges over the phone. If something has to give, staff sees this as a service that it is willing to eliminate, should it become necessary to do so.

Council Member Tate said that he liked the idea of eliminating the monthly and annual financial reports. He recommended that these reports be prepared on a quarterly basis.

Mayor Pro Tempore Sellers said that the City Treasurer and the Finance and Audit Committee review these financial reports. He said that it takes extra time and energy to produce the monthly financial reports. He supported preparing these reports on a quarterly basis or less frequently.

Finance Director Dilles indicated that the State requires the reporting of the City's investment and related activities to the Council at least on a quarterly basis.

Council Member Chang felt that it was important for the monthly reports to be prepared in order to allow the City Manager to keep abreast of City finances and to react as necessary.

Mayor Kennedy felt that in tight financial economic times, it is important to continue to receive frequent reportings. He said that everyone is trying to ensure that the right decisions are being made in terms of economic development. If cuts are to be made, the Council needs to make sure that they are appropriate cuts.

Council Member Tate supported receiving quarterly reports and more frequently if specific decisions need to be made.

Council Member Chang did not know how the City would be able to react to the financial climate if the financial reports are not reported on a regular basis.

Mayor Kennedy said that the investment reports are not as critical as receiving the current financial data. He felt that investment reports could be reported on a quarterly basis. However, he noted that the Council has not heard from City Treasurer Roorda on this issue.

Council Member Tate said that the question is how much analysis and reporting is necessary. This may be something that is critical but that not all information is critical.

Mayor Pro Tempore Sellers felt that the information necessary is the bottom line.

Finance Director Dilles indicated that he focused on placing cost recovery items on the critical side to make sure that the fees are recovering costs as this will be important as the City moves forward.

Mayor Kennedy said that is important to retain the fees for service structure approach.

Human Resources

Council Member Tate inquired as to what was meant by various employee events. He stated that he would hate to eliminate events that would diminish morale.

Director of Human Resources Fisher said that the employee events include the holiday party, City picnic and other get togethers that the City sponsors. She noted that on the critical services column, she listed employee morale. She stated that expenses have been reduced for employee events, indicating that staff members made individual and personal donations to make the holiday event take place. She felt that employee moral will be extremely critical.

Mayor Pro Tempore Sellers recommended that the Council discuss its role as the City faces these types of opportunities. He felt that there may be resources that the Council can bring forward to help provide incentives. The Council should make a good faith effort and begin discussions at the Council's goal setting sessions.

Council Member Carr stated that he was pleased to see that employee moral was listed on the critical side. He felt that events, programs and employee morale would be looked at in a different way. He expressed concern about training opportunities being listed on the less critical service side. He felt that the City needs to continue to train staff to a greater extent.

Director of Human Resources Fisher felt that it was important to retain training as the City would be deploying resources in different ways. This may result in additional training in order to maintain or change the skills of the City's current work force.

Police Department

Chief of Police Galvin addressed cold property crimes.

Council Member Tate said that there are degrees in property crimes and non injury traffic collisions. However, he did not know where the dividing line is but that he trusts the police department's judgment.

Council Member Carr referred to special operations, noting that the Chief of Police listed "crime prevention" under less critical services. He felt that any areas where the police department talks about preventative activities, especially crime prevention, should be listed under "critical services."

Mayor Pro Tempore Sellers recommended the continuation of crime investigation. He said that sometimes, in order to continue investigation, the City would be taking police officer's off the street. He stated that he would like to undertake further discussions about balance and to what degree the investigative work is kept in balance, keeping police officers on the street. He said that he appreciated that the school resource officers are listed under "critical services" as this is the kind of preventative measures that is important. He said that the primary goal of the police department should be enforcement activities, but that prevention activities are important as well, particularly when you talk about the Neighborhood Watch Programs. He said that there were items listed under the "less critical services" side that have either the words "cost recovery" or "licensing." He said that bike licensing is less important than providing some of the more basic services. If there are other services that might provide significant income or have a cost benefit balance, he would hate to completely eliminate some of these activities, especially when the City is looking for ways to cut back.

Council Member Chang inquired as to the proportion of the workload the Chief of Police considers to be less critical services.

Chief of Police Galvin said that one thing to keep in mind is that elimination of tasks would reduce costs for services. He understands that financing is difficult and that funding for the police department comes from the general fund. He felt that the City was at a critical mass at this time and that it would be inappropriate for him to state that the police staffing levels are adequate at this time.

Mayor Pro Tempore Sellers stated that he would oppose any efforts to reduce officers from policing the streets as the City is at a low level. He felt that other things would need to be cut back in order to give officers more time to be on the streets. He would also like to see investigations more visible. He felt that it was going to be difficult to cut or increase police services for the next couple of years. However, this does not mean that the Council cannot look at how the services are allocated overall.

Mayor Kennedy noted that the Council has public works and recreation & community services left to review. He recommended that each Council member submit comments to the City Manager and ask him to follow up on the comments before moving forward with the process.

Action: **No Action Taken.**

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	3

2.

EXISTING LITIGATION:

Legal Authority:	Government Code 54956.9(a)
Case Title:	Bob Lynch Ford, Inc. v. Timothy Paulus, et al
Case Name/No.:	Santa Clara County Superior Court Case No. 1-03-CV 001657
Attendees:	City Manager, City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the Closed Session items to public comment. No comments were offered.

Council/Agency Member Chang excused herself from closed sessions and a portion of the regular/special meeting.

ADJOURN TO CLOSED SESSION

Mayor/Chairperson Kennedy adjourned the meeting to Closed Session at 6:29 p.m.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 7:05 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairperson Kennedy, Police Lieutenant Booten led the Pledge of Allegiance.

CITY COUNCIL REPORT

Mayor Kennedy reported on the Santa Clara Valley Transportation Authority (VTA) Policy Advisory Committee, indicating that the VTA is going through tremendous financial difficulties as is being

experienced by many other public agencies, cities and counties. He stated that he serves on a financial ad hoc committee of the VTA that is looking at alternative ways to cut costs in the operating system and raise revenues. The Committee is also looking at a way of restructuring the VTA to provide better representation by smaller cities. He indicated that there are currently 12 members on the VTA board of directors, noting that there are 15 cities in Santa Clara County. The current representation is based on population. He stated that the City of San Jose has five representatives; the County has two representatives, leaving five votes for the remaining 14 cities in Santa Clara County. These five assignments are typically rotated among smaller cities (e.g., west valley cities, northern cities, and the MGM consisting of Morgan Hill, Gilroy and Milpitas). A proposal has been made to add a vote for each city, still retaining the population basis of the prorated vote. The Committee is looking at how smaller cities can get better representation on the VTA board of directors. He also serves on the Urban Limit Line Committee, helping with the dayworker center project and various other outside agency assignments.

Mayor Pro Tempore Sellers indicated that the Indoor Recreation Committee (IRC) met yesterday and reviewed plans. One of the issues first raised with the community center and that has been an issue with the development of the aquatics center is LEEDS certification, a level of design that encourages conservation in a variety of ways. Similar to what was done with the community center; the IRC is proposing that the City proceeds and do what it can to achieve LEEDS points. The IRC recommends that the work is done to design the facilities as efficiently as possible but that the City not pursue the paper work for LEEDS certification. If there are any questions or concerns regarding this recommendation, he requested that he or Council Member Chang be so advised and that they can raise this issue again with the IRC.

Council Member Tate indicated that he and Mayor Kennedy met today as the library subcommittee and narrowed down the library sites. The subcommittee had been looking at the Albertson center as a potential site but that it has been ruled out. The subcommittee is still looking at the old Sunsweet site. The subcommittee is looking forward to performing joint planning that would involve the library with the School District, looking at potential uses at the current Britton Middle School site. Also, being considered is expansion of the existing library or the construction of a new facility behind the civic center. He stated that a lot of evaluation has been conducted in terms of how to put these alternatives together. The subcommittee would like to receive public feedback. Following receipt of public feedback, the subcommittee would review all library alternatives.

CITY MANAGER REPORT

City Manager Tewes reported that the City's domestic water supply is based on ground water, indicating that some of the ground water basin has been contaminated by the chemical perchlorate emanating from a former industrial site operated by the Olin Corporation. The Council has asked staff to provide monthly testing of all domestic wells to assure City customers that the water being delivered does not contain perchlorate at the levels regulated by the state. He was pleased to report that following this month's testing that all wells were monitored and reported as being none detect for perchlorate. He indicated that since the Council last met, the state legislature and the Governor have agreed upon a program to submit to the voters of California in March 2004 a \$15 billion bond issue. This proposal

would borrow to bridge the gap in the state budget that the Governor and the legislature were unable to bridge with revenues and expenditures. He stated that the bad news for cities and counties is that the legislature and the Governor did not provide for an appropriation to backfill the lost revenue attributable to the motor vehicle license fee (VLF) reduction. He indicated that the Governor made two promises during his campaign: 1) to immediately reduce the VLF; and 2) to make sure that the cities and counties receive the amount of revenue that they would have otherwise received. He stated that the second promise is yet to be delivered. He said that there is a lot of effort state-wide with various cities and counties considering litigation. Others are taking political actions to urge that the \$15 billion bond not be adopted unless it provides a solution to local government financing issues. It is widely expected that when the legislature returns in January 2004 that there will be a lot of activity. He stated that it is city services that are impacted by the failure to reach a decision by the legislature and the Governor. He said that this is critical to this community as approximately 12-13% of the City's budget is attributable to this source of revenue. He indicated that most of the City's general fund budget pays for police and fire services. This is a significant reduction and that over the course of 120 days or so, the City would be making important decisions.

CITY ATTORNEY REPORT

City Attorney Leichter stated that she did not have a report to present this evening.

OTHER REPORTS

None.

PUBLIC COMMENT

Alan Palmer indicated that approximately four months ago, he addressed the Council about his concern about the Spring Avenue development at a 20% grade. He indicated that the Council turned down the applicant's proposal to construct above the 20% grade at that time. Residents made mention to violations that were in affect. He addressed grading and activity taking place at this time. He said that fences are being proposed to extend further than the ditch boundary line. He said that four months ago, the City Attorney stated that she would meet with the community development director, reviewing the easements. Also, stated was that the City would investigate the development agreement to see if there were any remedies. It was also stated that the slope above the line should be left at a natural state and that it would be investigated by staff. It was stated at that meeting by a council member that it sounds as though the homeowners were misled and that they should not be held responsible for anything that they did not sign. He interprets this to state that only the developer would be held to the development agreement and that once the property is sold, the subsequent owners would not be bound by it. He requested that this issue be agendized if no action is to be taken or to let the citizens know what the City will be doing about this issue.

City Manager Tewes indicated that he would agree to meet with Mr. Palmer to advise of the actions taken by the City to date.

George Nale addressed the need for a new or expanded library as the existing library is inadequate for the current population and future growth. He stated that he and many citizens expect a new library with the use of Redevelopment Agency (RDA) funds, some of it as a result of the visioning process. He understands that many solutions are being sought. However, if the RDA is the only solution, he felt that the City needs to fund the library before the funds disappear.

City Council Action

CONSENT CALENDAR:

City Attorney Leichter requested that item 14 be pulled from the consent calendar.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the Council, on a 4-0 vote with Council Member Chang absent, **Approved** Consent Calendar Items 2-13 and 15-21, as follows:*

2. **NOVEMBER 2003 CITY OF MORGAN HILL FINANCE & INVESTMENT REPORT**
Action: **Accepted** and **Filed** Report.
3. **AB1600 DEVELOPMENT IMPACT FEE REPORT FOR FISCAL YEAR 2002-2003**
Action: **Accepted** and **Filed** the AB1600 Development Impact Fee Report for the 2002-2003 Fiscal Year.
4. **SUBDIVISION, SD-03-11: COCHRANE-COYOTE ESTATES**
Action: **Took No Action**, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.
5. **EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES**
Action: **Authorized** the City Manager to Execute an Extension of the Contract with Pacific Municipal Consultants (PMC) for Contract Planning Services.
6. **COMMUNITY PLAYHOUSE EVENT ATTENDANT FEE**
Action: **Approved Pass On** of the Cost of an Event Attendant for the Playhouse for All Rentals (Excluding Lease Agreements and City Use).
7. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR TRAFFIC SIGNAL DESIGN AT TENNANT AVENUE/SOUTHBOUND HIGHWAY 101 OFF-RAMP INTERSECTION**
Action: 1) **Appropriated** \$160,000 in Additional Funds from Unappropriated Traffic Impact Fund Balance to This Project for Construction of Pedestrian Facilities, Road Widening and Additional Engineering; and 2) **Authorized** the City Manager to Execute a Consultant Agreement for Design and Preparation of Plans, Specifications and Estimates with Pinnacle Traffic Engineering, Subject to Approval by the City Attorney.

8. **AQUATICS CENTER PROJECT – NOVEMBER CONSTRUCTION PROGRESS REPORT**
Action: Information Only.
9. **APPROVAL OF REIMBURSEMENT AGREEMENT WITH SOUTH COUNTY HOUSING (JASMINE SQUARE APARTMENT COMPLEX)**
Action: 1) **Approved** an Appropriation of \$155,684 from the Current Year Unappropriated Traffic Impact Fee Fund Balance for Monterey Road Median Reimbursement; 2) **Approved** the Reimbursement Agreement; and 3) **Authorized** the City Manager to Sign the Reimbursement Agreement on Behalf of the City with South County Housing.
10. **ACCEPT AS COMPLETE THE 2002-2003 PAVEMENT RESURFACING PROJECT**
Action(s): 1) **Accepted** as Complete the Construction of the 2002-2003 Street Resurfacing and Reconstruction Project in the Amount of \$750,961.05; 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's office; and 3) **Authorized** the Carry Over into CIP Project #519096 the Combined Total of \$229,471 from Both the Street Fund and RDA Fund Previously Budgeted but Unspent in Fiscal Year 2002-2003.
11. **APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH DEWEY AND CAROLYN KOSICH (APN 764-32-024)**
Action: 1) **Approved** the Subdivision Agreement and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.
12. **APPROVAL OF CONTRACT FOR INTERIM MAINTENANCE SUPERVISOR**
Action: 1) **Approved** the Agreement; and 2) **Authorized** the City Manager to Execute a Contract to Continue the Contract Services of an Interim Maintenance Supervisor.
13. **LIBRARY COUNCIL SUB-COMMITTEE RECOMMENDATION REGARDING SUBMITTING GRANT FOR ROUND THREE OF THE STATE LIBRARY BOND GRANT PROGRAM**
Action: **Authorized Application** for Round Three of the State Library Bond Grant Program Due January 16, 2004.
15. **MORGAN HILL POLICE FACILITY**
Action: **Awarded** Construction Contract to Stevelle Construction Company Incorporated in the Amount of \$1,699,000 for the Interior Construction of the New Morgan Hill Police Facility, Plus a \$114,000 Change Order Contingency; for a Total Price of \$1,813,000.
16. **ART EXHIBIT POLICY FOR THE COMMUNITY AND CULTURAL CENTER**
Action: **Directed** Staff to Implement the Policies and Art Exhibition Agreement as Presented.

17. **THIRD AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF SHUTE, MIHALY & WEINBERGER, LLP**
*Action: **Authorized** the City Manager to Execute a Third Amendment to Agreement with the Law Firm of Shute, Mihaly & Weinberger, LLP.*
18. **RESOLUTION AMENDING THE RECORDS RETENTION SCHEDULE FOR THE CITY OF MORGAN HILL**
*Action: **Adopted** Resolution No. 5749, Amending the City's Record Retention Schedule.*
19. **ADOPT ORDINANCE NO. 1642, NEW SERIES**
*Action: **Waived** the Reading, and **Adopted** Ordinance No. 1642, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-03-05: DEWITT – MARRAD GROUP (APN 773-08-015).***
20. **ADOPT ORDINANCE NO. 1643, NEW SERIES**
*Action: **Waived** the Reading, and **Adopted** Ordinance No. 1643, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1618, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-02-09 FOR APPLICATION MMP-02-02: DEWITT – MARQUEZ TO ALLOW FOR A THREE-MONTH EXTENSION OF TIME FOR FINAL MAP SUBMITTAL AND A SIX-MONTH EXTENSION OF TIME FOR BUILDING PERMIT SUBMITTAL FOR FOUR (4) BUILDING ALLOTMENTS AWARDED IN THE 2002 RDCS COMPETITION (APN 773-08-014).***
21. **MINUTES OF SPECIAL CITY COUNCIL MEETING FOR DECEMBER 5, 2003**
*Action: **Approved** the minutes as written.*
14. **AGREEMENT WITH MORGAN HILL UNIFIED SCHOOL DISTRICT AND COUNTY OF SANTA CLARA FOR COOPERATION IN IMPROVEMENT OF BURNETT AVENUE**

City Attorney Leichter indicated that the School District has found that the County will charge it for an encroachment permit but that the County would not charge the City if it applies for the encroachment permit. She recommended the agreement be amended to allow the City to apply for the encroachment permit to save the School District money. She stated that the School District has drafted an agreement whereby they reiterate that they assume all responsibility and liability for the construction of the improvements.

Action: On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** Agreement for

Cooperation in Improvement of Burnett Avenue Between City, School District, and County; as amended by the City Attorney.

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Tate and seconded by Vice-chair Sellers, the Agency Board, on a 4-0 vote with Agency Member Chang absent, **Approved** Consent Calendar Items 22 & 23 as follows:*

22. **NOVEMBER 2003 REDEVELOPMENT AGENCY FINANCE & INVESTMENT REPORT**

Action: ***Accepted** and **Filed** Report.*

23. **DOWNTOWN REQUEST FOR CONCEPTS**

Action(s): ***Accepted** Status Report.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

City Manager Tewes requested that item 26 be removed from the Consent Calendar

Action: *On a motion by Council/Agency Member Tate and seconded by Mayor Pro Tempore/Vice Chair Sellers, the City Council/Agency Board, on a 4-0 vote with Council/Agency Member Chang absent, **Approved** Consent Calendar Items 24 and 25 as follows:*

24. **AGREEMENTS WITH JOHNSON LUMBER**

Action: ***Authorized** the City Manager/Executive Director to do Everything Necessary and Appropriate to Execute and Implement the Agreements with Johnson Lumber, Including Making Modifications to the Agreements Subject to City Attorney/General Counsel Review and Approval, for a Loan of \$230,000 to be Repaid From Sales Tax Revenue Generated by the Project.*

25. **MINUTES OF JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING FOR DECEMBER 3, 2003**

Action: ***Approved** the minutes as written.*

26. **ANNUAL FINANCIAL REPORTS FOR FISCAL YEAR 2002-2003**

Jack Dilles introduced Mark McGeady, Senior Manager with the City's audit firm of Caporicci and Larson.

Mr. McGeady presented the annual financial report for the City and the RDA. He addressed the components of the financial statements. He stated his appreciation of the finance department staff's great effort in assisting with the audit.

City Manager/Executive Director Tewes said that staff looks forward toward accepting a certificate of achievement for excellence in financial reporting at a future Council meeting.

Action: *On a motion by Council/Agency Member Tate and seconded by Mayor Pro Tempore/Vice-chair Sellers, the City Council/Agency Board, on a 4-0 vote with Council/Agency Member Chang absent: 1) **Accepted** and **Filed** the Comprehensive Annual Financial Report for the Fiscal Year 2002-2003; and 2) **Accepted** and **Filed** the Financial Statements for the Redevelopment Agency for Fiscal Year 2002-2003.*

City Council Action (Continued)

CONSENT CALENDAR:

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** Consent Calendar Item 27 as follows:*

27. SUBDIVISION, SD-03-01: McLAUGHLIN – SOUTH COUNTY HOUSING (JONES)

Action: **Took No Action**, *Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.*

City Council Action

PUBLIC HEARINGS:

28. ZONING AMENDMENT, ZA-02-16: DEWITT-MARQUEZ; SUBDIVISION, SD-02-11: DEWITT-MARQUEZ; AND SUBDIVISION SD-03-05: DEWITT-MARRAD GROUP
(Continued from 12/3/03) – ***Ordinance No. 1644, New Series and Resolution Nos. 5750 and 5751***

Director of Community Development Bischoff presented the staff report. He indicated that the resolution for the four lot subdivision contained an error and that a revised resolution has been forwarded to the Council.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Ordinance No. 1644, New Series.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1644, New Series by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1310, NEW SERIES, WHICH PREZONED 9.45 ACRES LOCATED ON THE WEST SIDE OF DEWITT AVENUE NORTH OF SPRING AVENUE FROM COUNTY HS, HILLSIDE TO CITY R-1 (12000)/SINGLE FAMILY RESIDENTIAL PLANNED DEVELOPMENT. THE AMENDMENT INCLUDES THE ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR THE 21-LOT, 9.45-ACRE RESIDENTIAL PLANNED DEVELOPMENT (APNs 773-08-012 through -016) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.***

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Chang absent, **Adopted** Resolution No. 5750, Approving the Five Lot Tentative Map.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council, on a 4-0 Vote with Council Member Chang absent, **Adopted** Resolution No. 5751, Approving the Four Lot Parcel Map, as amended.*

29. GENERAL PLAN AMENDMENT GPA-03-05; URBAN SERVICE AREA USA-03-05; ZONING AMENDMENT ZA-03-17; BURNETT-MORGAN HILL UNIFIED SCHOOL DISTRICT SOBRATO HIGH SCHOOL – Resolution Nos. 5752 and 5753 and Ordinance No. 1645, New Series

Director of Community Development Bischoff presented the staff report, indicating that the Planning Commission and the Urban Limit Line subcommittee recommend Council approval of the expansion of the urban growth boundary lines to expand the boundaries to incorporate the properties identified.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Adopted** Resolution No. 5752, Approving the General Plan and Urban Growth Boundary Amendment.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Adopted** Resolution No. 5753, Approving the Urban Service Area Amendment.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Ordinance No. 1645, New Series.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1645, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PRE-ZONING 27.1 ACRES, FROM COUNTY A-20 TO PUBLIC FACILITIES FOR APNS 725-01-012 & 013 AND 0.7 ACRES FROM COUNTY A-20 TO R1-7,000 FOR APN 725-01-021 FOR APPLICATION ZA-03-17: BURNETT-MHUSD SOBRATO HIGH SCHOOL** by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.*

30. DEVELOPMENT AGREEMENT, DA-03-10: COCHRANE-COYOTE ESTATES – Ordinance No. 1646, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. Dick Oliver indicated that he was present to answer any questions that the Council may have. No further comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Ordinance No. 1646, New Series.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1646, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA-03-10 FOR MP-02-14 COCHRANE – COYOTE ESTATES (APNS 728-35-008, 010; 728-36-001, 010)** by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.*

31. DEVELOPMENT AGREEMENT AMENDMENT DAA-00-05: MALAGUERRA-MANCIAS – Ordinance No. 1647, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Ordinance No. 1647, New Series.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1647, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1597, N.S., AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-99-26: MALAGUERRA-ANSUINI/MANCIAS TO INCORPORATE A NINE-MONTH EXTENSION OF TIME FOR SIX, PHASE II UNITS OF THE 15-UNIT DEVELOPMENT. (APNs 728-35-016 & -017)/(DAA-00-05: MALAGUERRA – MANCIAS) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.***

32. DEVELOPMENT AGREEMENT AMENDMENT DAA-00-08: BERKSHIRE-SINGH – Ordinance No. 1648, New Series

Director of Community Development Bischoff presented the staff report, indicating that the Planning Commission could not find that there were any delays, on the City's part, that would warrant an additional extension of time. He indicated that on a 4-1 vote the Planning Commission does not recommend an extension of time be granted. He informed the Council that since the Planning Commission's action on this request, the applicant has made significant progress by filing and recording the final map and pulling building permits for the 4-units. However, the applicant is still requesting the extension of time based on the unknown weather factor and whether or not he would be able to commence construction.

Mayor Kennedy opened the public hearing.

TK Singh, applicant, felt that he has complied with the requirement to record his map by September 23, 2003. When he was ready to submit the bond and the insurance papers required, he found that some of the endorsements on the insurance papers were still missing. When he requested that his insurer issue the endorsement, they declined his request. Therefore, he had to search for another insurer and that this took some time. He indicated that he could not attain the insurance endorsements by the time the Planning Commission convened on December 2, 2003 but received the insurance endorsement on December 3, 2003. He took these endorsements to the public works department and the map was recorded within a week. He also pulled building permits. He indicated that rain would not allow him to compact the land and fears that he would not be able to commence work on the project by December 31, 2003. He requested that the Council consider his request and grant a six-month extension, indicating that a three-month extension would suffice. Weather permitting, he would be able to begin construction any day. However, should it begin to rain, commencement of the project could be delayed. He assured the Council that there has been no delay on his part and that he has diligently been trying to pursue the project. He stated that he has proceeded with design of the stripping plans and the crossing for the Church located on the opposite side to ensure the proper coordination of the north and south side of the road.

Mayor Pro Tempore Sellers noted that Mr. Singh mentioned that a three month extension might be sufficient. He inquired whether a two-month extension would be sufficient.

Mr. Singh indicated that he requested a six-month extension because of the unstable weather season that may occur between December and March. He indicated that construction of the project is dependent on the weather conditions in order to optimize compaction. If the weather permits, he would commence construction as soon as possible.

No further comments being offered, the public hearing was closed.

Council Member Tate stated that he would like to minimize the amount of time to be given to this project. In these situations, he would almost always agree and support the recommendation of the Planning Commission. However, based on the fact that the applicant has come so far and is near to construction, he would like to see this project built. He suggested that the Council grant a six-month extension just in case an extended storm comes in, understanding that dry weather is needed to commence construction. However, he would like to see construction commence as soon as possible.

Council Member Carr said that he has expressed concern that the Council seems to rubber stamp extensions of time that come before it. He noted that this is the fourth extension of time before the Council for this project and that it seems that activity takes place before the extension request comes before the Council. He stated that he was not comfortable granting a six month extension but that he would support a shorter extension period (e.g., three-months). He stated that his concern with granting extensions of times is that the projects become an old product when they are ultimately developed and are not up to today's development standards, are not the most modern project and/or are not the kind of product that the City is striving to see with Measure P/Measure C. He expressed concern about continuing the practice of granting extensions of times. He stated that he would support granting a three-month extension but not a six-month extension of time.

Mayor Pro Tempore Sellers stated that he would support a three-month extension of time as there is some validity to the weather issue. He noted that Planning Commission minutes indicate that Commissioner Lyle suggests that if there is a case, that it be presented to the Council. He felt that there was enough of a case to approve a three-month extension. The Council needs to make it clear that Mr. Singh understands that this project will not come back to this Council with any hope of receiving another extension.

Mayor Kennedy said that he met with Mr. Singh and reviewed his documentation. He indicated that the background information was very difficult to get the project approved as it required the VTA, the County and the City's public works department's approval, noting that this was a lengthy process. He also reviewed the insurance certificate and that he did not believe that there was any intent on Mr. Singh's part to delay the project. As the developer has pulled the building permit, the most critical part of the project, he did not believe that there was any reason for Mr. Singh to want to delay the project other than the weather. Trying to predict weather would be difficult and that limiting the extension to three-months would not be appropriate. He stated his support of a six-month extension of time.

Mayor Pro Tempore Sellers said that should it rain for a three-month period on a continuous basis, Mr. Singh could return to the Council and explain his circumstances. He noted that Mr. Singh indicated that three-months would be a sufficient amount of time to commence construction.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Ordinance No 1648, New Series.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1648, New Series, as amended and as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1622, New Series, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-01: BERKSHIRE - SINGH TO INCORPORATE A ~~SIX~~ THREE-MONTH EXTENSION OF TIME FOR THE FOUR-UNIT PROJECT. (APN 764-23-054)/(DAA-00-08: BERKSHIRE - SINGH)** by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.*

33. GENERAL PLAN AMENDMENT, GPA-03-06; ZONING AMENDMENT, ZA-03-02; AND DEVELOPMENT AGREEMENT, DA-03-02: McLAUGHLIN/CENTRAL-SOUTH COUNTY HOUSING (JONES) – Resolution No. 5754 and Ordinance Nos. 1649 and 1650, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. Nancy Bright, project manager with South County Housing, informed the Council that she would answer any questions which it may have. No further comments being offered, the public hearing was closed.

Mayor Pro Tempore Sellers indicated that he confirmed that his residence is not located within 300 feet of this project.

Council Member Tate stated that he did not understand the unit count, indicating that there was reference one place to 18 units, 8 units in other places, and 16 units and 5 units in other portions of the report. He looked at the map and could only find 16 units. He did not understand the 5 unit portion of the project.

Mr. Bischoff indicated that the precise development plan was for the entire property consisting of 16 units. He clarified that there are 1 or more existing homes on the property which do not require an allocation and that this may further confuse the unit count.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** the Mitigated Negative Declaration.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Adopted** Resolution No. 5754, Approving the General Plan Amendment.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Ordinance No. 1649, New Series.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council **Introduced** Ordinance No. 1649, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT ON A .30 ACRE AREA OF APN 726-24-023 CHANGING THE ZONING DESIGNATION FROM R-3 TO R-2/RPD AND APPROVAL OF A RESIDENTIAL PLANNED DEVELOPMENT OVERLAY AND PRECISE DEVELOPMENT PLAN FOR A 16 UNIT R-2 (3,500)/RPD MULTI FAMILY LOW DEVELOPMENT LOCATED ON THE EAST SIDE OF MCLAUGHLIN AVENUE, NORTH OF CENTRAL AVE. (APNS 726-24-006, 007, 022, 023 & 024) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.***

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Ordinance No. 1650, New Series.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council **Introduced** Ordinance No. 1650, New Series by Title only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT DA-03-02: MCLAUGHLIN-JONES (APNS 726-24-006 & 007) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.***

34. DEVELOPMENT AGREEMENT AMENDMENT DAA-02-07: SHAFER-BAMDAD

Mayor Kennedy recused himself from this item.

Director of Community Development Bischoff presented the staff report, indicating that the applicant has had emergency surgery and is unable to be in attendance this evening. He stated that the applicant is requesting that this matter be continued to the Council's January 21, 2004 meeting.

Mayor Pro Tempore Sellers opened the public hearing. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 3-0 vote with Council Member Chang and Mayor Kennedy absent, **continued** the public hearing to January 21, 2004 or the next scheduled meeting.*

City Council and Redevelopment Agency Action

PUBLIC HEARINGS:

35. ZONING AMENDMENT ZA-03-10/SUBDIVISION SD-03-08: WATSONVILLE-SOUTH COUNTY HOUSING

Planning Manager Rowe presented the staff report, addressing exceptions from the zoning standards that would be required to proceed with a proposed 12-unit two-story, single family attached ownership teacher housing project. He indicated that the proposed density for the project is 12.6 dwelling units per acre.

Mayor Kennedy resumed his seat on the dais.

Business Assistance and Housing Services Manager Maskell addressed policy issues that will have direct implications on the decision to be taken by the Council. The issues are as follows: Should the density of the project be reduced to comply with the zoning? What are the financial implications of reducing the density of the project? If the density is reduced, what becomes of the Measure P allocations committed to the project? Are some zoning exceptions more important to preserve than others? She indicated that South County Housing representatives and the architect, Jim Yee from the Dahlin Group were in attendance to address project alternatives to the 12-unit scenario.

Jim Yee, project architect, identified alternatives to the 12-unit development. He stated that he tried to face the challenge of developing a project that is friendly to the neighborhood, fronting the buildings to the street with the garages located to the rear. He tried to bring back the old sense of neighborhoods. The challenge was how to get more units onto the site. He felt that the project, as designed, would compliment the existing neighborhood. He noted that the garages are located to the rear and that he designed an architectural style that would compliment the existing neighborhood. The project was designed where you would see living spaces and no garages. One of the things he looked at was the FAR, the amount of building to lot area; indicating that the building to lot area is at 53%. He noted that the adjacent development has an average FAR of 59.9%. From this perspective, the project's lots and homes are smaller while the adjacent development meets the criteria but the homes are larger.

Council/Agency Member Tate noted that the Council has indicated that they would like to see more than seven units constructed. He inquired whether there were alternative designs between 7 to 12 units.

Mr. Yee displayed an 11-unit design. He felt that this design displays a lot of green to the amount of building. He said that this design affords a reasonable balance with regards to open space and building area and provides eight on site parking and five off site parking with increased open space.

Council/Agency Member Chang entered and was seated.

Jan Lowanthal, South County Housing, indicated that when this project was contemplated over a year ago, she knew that she was pushing the envelop in terms of looking at something that would be a cutting edge development in Morgan Hill. The design team explored some of the issues, bumping up against the existing zoning ordinance. She acknowledged that the project would be deviating from some standards but that thought has to be given to what is really the value of the standards and whether the City would be getting an acceptable trade off in return for the variances. She felt that the 12-unit proposal would work from a design stand point, notwithstanding the financial implications. She addressed the financial implications with lowering the number of units associated with the various scenarios. She said that 12-units would have an average cost of \$411,504 per unit; an 11 unit scenario would have an average cost of \$423,716; and the 7-unit scenario at \$499, 013. These three scenarios would result in an Agency contribution of \$898,044 to \$1,233,088 with a subsidy ranging from \$74,837 to \$176,155.

Council/Agency Member Carr said that the reason the Council/Agency got involved in this project was to help provide some housing for Morgan Hill teachers. He stated that it was his interest to try to help provide housing for young/beginning teachers so that they remain in this school district and become veteran teachers. He inquired whether a first, second or third year teachers earning \$35,000-\$45,000 would qualify for one of these homes.

Ms. Lowanthal responded that first year teachers would be able to afford these homes. In the 12-unit scenario, one-third of the units are targeted to entry level teachers; one-third for individuals of median income (\$70,000-\$80,000); and one-third for moderate income individuals. In the 11-unit scenario, there would be four units proposed for the entry level teacher. At the 7-unit scenario, there would be 2-moderate, 3-median, and 2 entry level units.

Mayor Kennedy opened the public hearing.

Dan Kenney, 241 Via Naretto, stated his support of affordable housing. However, he disagreed with the density of 12-units. He felt that the project should be designed with 6-8 units to avoid the need of the number of variances/exceptions. He stated his disagreement with the costs that were presented as he felt that they were inflated costs. He did not see the \$499,000 housing cost as being affordable, noting that units in his neighborhood are selling at the lower \$500,000. He did not know why it would cost more to build a less dense project. He stated his support of triplexes or the design of 2 or 3 triplexes to achieve 9-units. Another alternative would be to design duet units. He said that the entire neighborhood felt that 12-units were excessive as there is insufficient parking proposed, there is difficulty in making left turns onto Watsonville Road, and the existence of safety issues.

Keith Gangitano, 270 Via Naretto, stated that he has attended every meeting that relates to this project. He was pleased to see that some individuals are looking at the project with some clarity while being disappointed that others are not. He felt that the design team packed 12-units into the project, noting that the density does not work based on existing codes. He noted that 12 exceptions to the codes would be required. If this was a private builder in any other situation, it would not have made review this far. He

agreed that teachers need places to live as much as anyone else. He did not believe that this was a creative solution to house the community's teachers. He felt that a silent second program would be a good solution to give teachers an opportunity to choose where they live. This would also give the Council an opportunity to house teachers and give them the satisfaction of home ownership and a sense of community that others are fortunate to have. He stated that low income housing is not an issue; the issue is that the project is too dense. The teacher housing project is being proposed across from a mushroom farm that smells on some days. Traffic safety is an issue as well.

Ramana Devaraj, 255 Via Naretto, indicated that she has been involved with the development of the project from the beginning. She said that she has expressed her opinion at every meeting before the Planning Commission and City Council relating to this project. She has also written a few letters to the Morgan Hill Times. She stated that she is tired of expressing herself so many times and hopes that this would be the last time that she would have to express her concerns to the Council. She felt that the Council has all the information available that identifies where the plans violates building codes. She indicated that the City has undertaken many community projects that are master pieces and will shine like jewels. Unlike these community projects, she felt that the residential project would stick out like a sore thumb. The Council would set a precedent by letting a substandard project proceed with development. She requested that the Council not compromise the basic city codes because it could result in a disaster. She felt that it would be a disgrace to allow the 12-unit development to proceed as designed. She supported viewing design alternatives in the 6-8 unit range; a design that abides by all city codes. She recommended that the City design a project that does not violate density codes. She felt that a nice project should be built for teachers so that they will remain in the community.

No further comments being offered, the public hearing was closed.

Mayor Kennedy requested that the questions relating to the traffic issues raised be addressed.

Planning Manager Rowe indicated that Watsonville Road narrows down at the point past the project's intersection. The problem is the west bound traffic not having a dedicated turning lane as a driver is negotiating a movement while still in the travel lane. There is also a problem associated with site distance because of the way the road narrows. He said that a lot of the problem is attributable to the fact that Watsonville Road has not been completed east toward the intersection with Monterey Road. This creates difficult turning movements both entering the project and exiting the neighborhood. If a Watsonville Road right of way could be acquired, it would help mitigate the situation. Being able to acquire additional right of way from the adjacent property would allow the construction of a left turn pocket as well as a right turn lane.

Council/Agency Member Chang inquired as to the zoning (units per acre) of the residential two story projects located at Butterfield and Dunne Avenue.

Planning Manager Rowe responded that there are 14-15 units per acre in an R-3 zoning district, noting that this is an R-2 zoning district.

Council/Agency Member Chang said that it is possible to plan an attractive higher density project such as the projects located at Butterfield and Dunne Avenue. She inquired as to the problem the City is experiencing with this project.

Planning Manager Rowe responded that this is an R-2 zoning district and requires more exceptions to the zoning standards in this instance versus that of an R-3 zoning district. He noted that the other R-3 projects are rental units where this project is an ownership project and would necessitate access to a public or private street built to public street standards. In the R-3 zoning district, parking is aggregated in one area and the units are sited in a different location. This allows for the access driveways as they are not considered streets with all units being sited on one lot of record. He stated that there are different approaches on how properties develop in the different zoning districts. This project pushes the envelope in order to accomplish the objectives of ownership projects where each lot is owned individually with as many units as possible. In order to do so, the project required a number of exceptions as outlined in his presentation.

Mayor/Chairman Kennedy inquired about silent seconds and how they would work in a case like this.

Business Assistance and Housing Services Director Toy said that the project, as proposed, envisions having silent seconds for specific units. The silent seconds are loans that are paid back to South County Housing at the time the homeowner sells their units. He said that there are silent seconds that are not project specific. The City could state that there is a loan that could be borrowed to purchase a home if a teacher or police officer meets the requirements. If the requirements are met, an individual could be eligible for a loan, purchasing a home anywhere within the city limits. The difficult issue is that of the amount of the silent second and whether or not an individual can qualify for certain units. He indicated that the City is working on a city-wide silent second program as part of the affordable housing strategy that could be opened to all citizens in the community with priority given to targeted groups (e.g., teachers, police officers, fire fighters, school district employees, etc.).

Council/Agency Member Chang inquired whether a change in zoning of this property to an R-3 zoning district would trigger the identified code exceptions.

Planning Manager Rowe responded that a change in zoning to R-3 may reduce some of the exceptions. However, if the objective is to have an ownership project where you create individual lots of record, this would drive the number of exceptions more than anything else. He clarified that the City has stricter standards since the construction of the Creekside Village development relating to private streets.

Council/Agency Member Carr noted that safety concerns have been expressed about this project. He inquired whether the fire department has reviewed the plans.

Planning Manager Rowe indicated that the fire department expressed concern with the insufficient turn around for fire truck maneuvering. He said that the fire department reviewed two reiterations of the plans and that the plans before the Council were the ones that the fire department found acceptable. The Planning Commission still expressed concern even though the fire department signed off on the plans due to the size of the turn around for fire trucks.

Mayor Pro Tempore/Vice-chair Sellers stated that he was anxious about the 12-units based on the interior space and the usability of the space to make it viable for the residents who would reside in these units, minimizing any impacts to the adjacent residents. He applauded the creativity of the design. He recommended that the design include some of the visible space. He understood why it makes sense to place the frontage on Watsonville Road. However, the fact that the project is fronting Watsonville Road and the fact that the project is across the street from an unattractive facility, parents would not allow their children to be in the front yards. Thus, more reason to have an interior space that is viable. He stated that the Creekside project does not have space that is usable based on frontage. There have been problems in getting through the Creekside project and you tend to see a line of cars parked along Dunne Avenue. The overflow parking is not an issue associated with the Creekside project but would be a bigger issue in this area. He expressed concern with this impact on the neighborhood. He would support the 12-unit project based on the compromises and applauded the creativity in being able to figure out all the issues. He would support investigating purchasing the adjacent property. He requested additional creativity in the subsequent consideration/exploring financing alternatives such as the Housing Trust. He stated that this is not the final decision and that there were a few design issues that he would like to continue to think about, explore, and consider.

Mayor/Chairman Kennedy recommended the use of Redevelopment Agency housing funds to mitigate/correct the traffic concerns that have been raised such as acquiring the land that is needed to make the turning movement safe. He noted that the City does not want to create a safety hazard. He said that the residents of the Countryside development are pleased with the way that project was designed. He requested that the design team look at the Countryside design, particularly the units to the rear to see if some of the concepts used in that project could work in this project. He felt that the solution would be that of creativity versus the number of units. He recommended that access to the Llagas Creek trail be designed into the project, if possible.

Council/Agency Member Tate did not believe that it was the issue of which zoning exemptions were more important to preserve than others but felt that it was the sum total of exemptions that creates the problem. If the City needs to violate all zoning standards, some fairly significantly and some not so significantly, the project got too dense. He felt that the creativity and innovation used was helpful to find out the maximum number of units that can be accommodated in the project. He expressed concern that the proposed density may be too much. He noted that the Council was shown one alternative that was between 7-12 units, with 11 units appearing to be the number. He felt that the City could do some things financially to mitigate some of the problems. There may be a way to look at a 10-unit design that would be accepted. He did not believe that anything less than 10 units would accomplish what the City would like to accomplish in terms of housing affordability. He noted that the design team did not show the Council what the implications would be going from 12 to 11 units in identifying the zoning problems. He would like to see the impact to zoning/exceptions associated with a 10 or 11 unit project. He noted that the City needs to decide what should be done with the excess Measure P allocations.

Council/Agency Member Carr noted that the Council is struggling with this project. He indicated that he requested that this project come before the Council this evening in order to discuss the variances required. With staff's explanation, he understands what is being asked in terms of the variances. He felt

that there were acceptable tradeoffs to variances. He said that the Planning Commission's role is to try and uphold all of the municipal and zoning code requirements. However, the Council's role is much bigger, broader and more significant than this. The Council is trying to provide a housing project that is unique that provides a direction/benefit. The Council/Agency has to weigh what the benefit is against the variances and whether they balance out. The important issue to him is the affordability of the units. This is the reason he supported more than 7-units. He did not believe that the City would achieve the affordability being sought in a 7-unit project. Perhaps the community is not ready for a unique, different, and/or innovative residential project. He felt that the City was and that this was the reason he was willing to support the project and move forward with it. It was his hope that the project would be able to proceed and that he would be willing to consider the items suggested such as looking at a 10 or 11 unit project that will give the City and future homebuyers a significant benefit. He would like to make sure that every dollar spent on this project brings back the benefit desired. The Council/Agency will need to look at this when this project comes back in order to weigh them out. He would like to see the City do something different and unique or the Council can scrape the project and start over. If the units are dropped too low, perhaps the City could look at silent seconds. If the project does not provide the affordability of the units for the audience the Council is trying to target and benefit, there may not be a lot of interest in doing the project at all.

Mayor/Chair Kennedy stated that the objective of the meeting at this point was to provide direction to staff and to the applicant regarding appropriate project modifications. He noted that the Council/Agency has done so. He stated that the design team will bring something back for Council/Agency consideration.

Action: **No Action Taken.**

36. TRAIN DEPOT BUILDING RENTAL – CAFÉ Y'A BON – Resolution Nos. 1755 and MHRA 247

Business Assistance and Housing Services Manager Maskell presented the staff report. She indicated that the tenant improvements would be general purpose improvements.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Mayor Pro Tempore/Vice-chair Sellers indicated that he had the opportunity to work with staff at the beginning of the process and that he was pleased to see that a resolution was found. He felt that the process took longer than it should have, noting that this was a unique project. It was his hope that the next project would not take as long to process. He indicated that basic, standard improvements are being made. He was confident that Café Y' Bon has the commitment as well as the resources to make this a successful endeavor. He also felt that the City was covered in the event that something was to change. He stated his support of this project.

City Council

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the Council unanimously (5-0) **Adopted** Resolution No. 1755, Approving Lease Agreement (the “Lease”) with Café Y’A Bon, an Espresso Bar LLC (“Y’A Bon”).*

Redevelopment Agency

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Carr, the Council/Agency Board unanimously (5-0) **Adopted** Resolution No. MHRA-247, Approving Lease Agreement (the “Lease”) with Café Y’A Bon, an Espresso Bar LLC (“Y’A Bon”).*

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Carr, the Council/Agency Board unanimously (5-0) **Authorized** the Executive Director to Execute a Loan Agreement (the “Loan”) in the Amount of \$20,295 with Y’A Bon, and Do Everything Necessary to Implement the Loan and Related Agreements.*

City Council Action

OTHER BUSINESS:

37. COMMUNITY INDOOR RECREATION CENTER – SENIOR AND YOUTH BUILDING SPACES AND PROGRAMMING

Deputy Director of Public Works Struve presented the staff report. He indicated that the last time the indoor recreation center was before the Council was on October 22, 2003 and that staff received the Council’s approval to move forward with the schematic design, including design development. Also, at that meeting, the Council directed staff to go back and work with the youth and seniors on their specific building space needs. He indicated that staff has done this with workshops being held on November 17 and 18, 2003 with youths and seniors. Staff followed up with their suggestions, returning to the youths and seniors the first week of December. He stated that the revised floor plan is within the square footage of the approved schematic design. He indicated that Janet Tam was in attendance to review the elements of the revised floor plan. She would also address potential building expansion. He stated that Recreation and Community Services Manager Spier will address the programming policies discussed with the youth and seniors relative to the spaces to be shown within the recreation center. He indicated that the project is currently at 50% design development. In late February or March 2004, staff will return to the Council seeking approval for 100% design development. At this point, the project will proceed with the construction documents. He stated that the project is on budget and on schedule. He said that the CEQA document has been prepared and is being circulated for comment.

Janet Tam, Noll and Tam, indicated that focus was given to senior and youth spaces in the development of the overall building. She met with an informal senior group to understand their needs and to talk about the programs being proposed. Discussed was what programs were still appropriate and what programs they felt were missing. During the workshop, alternatives were presented to reconfigure space, making the senior area more flexible. Following discussions, she reconfigured spaces to provide

two multi purpose rooms: one smaller multi purpose room to be used for smaller functions at about 300 square foot; and a larger multi purpose activity room consisting of approximately 430 square feet. An aspect that came out of the workshop was the importance of a dedicated shared computer area. Another important aspect was to provide an appropriate senior entrance so that the distance from the entry to the parking would be close. She felt that everyone came away understanding what the seniors would like to see and understood what programs they would like to see. She also met with the youth group to determine needs and identified the programming space, indicating that the seniors and youth both have dedicated outdoor space. She stated that she also met with both the youth and senior advisory committees and that the plans have been revised to incorporate their programming needs, including a shared mini kitchen. She addressed the idea of the expansion of the indoor recreation center. She said that it was a critical issue that needs to be addressed at this time because the placement of the building would impact roads and landscape features. She did not believe that the City would want to expand into areas that would be torn down to accommodate future expansion. Discussed at the indoor recreation subcommittee meeting were the different types of expansions that would make sense with a building such as this one. She said that in the west wing, what makes sense is to expand the multi purpose room from 2,000 to 4,000 square feet. The kitchen would remain the same size. On the recreational side or the east side of the building, there are a couple of expansion possibilities. The most likely areas that would allow expansion would be another half-sized basketball court and a fitness area. The subcommittee felt that it made sense to work with the proposed plans and limit the expansion to 5,000 square feet. This would allow the building foot print to remain as it exists today. She indicated that you would not be able to expand the gym under this scenario.

Mayor Kennedy recommended that the fitness area be located near the aerobics area to accommodate expansion of the gym. He indicated that he would like to keep options open in order to allow expansion of the gym to the west.

Mayor Pro Tempore Sellers said that the indoor recreation subcommittee wanted to allow an opportunity for future expansion, if possible. However, the reality is that the expansion would not occur until 5 or 10 years down the road. The subcommittee did not want to give too much definition as it was concerned about the integrity of the entire project. Discussed was the location of the detention ponds and the road on the corner that might necessitate site acquisition and a number of other things that would need to occur. The subcommittee was able to find some significant dedicated space for the multi purpose room, doubling the size in the future without too much effort, moving to the south. You could be looking at the realignment of the gym and aerobics room, indicating that there may not be a need for aerobics down the road.

Mayor Kennedy said that if you swapped the fitness and aerobics room, a larger gym facility could be constructed with a portion of it being used for aerobics, initially. If there was a need to grow at a future date, the aerobics portion could be relocated.

Ms. Tam said that uses of the gymnasium and the aerobics are different as programmed at this time. She indicated that the gymnasium has a requirement of a 27-foot ceiling clearance for volleyball. If the City wants to expand the gymnasium at a later date, it has a different requirement, spatially, than something

like an aerobics room. She indicated that this could be costed out such that the gymnasium would be elongated, with a rectangular space to be used for fitness or aerobics.

Recreation and Community Services Manager Spier addressed the policies related to Exhibit G. She indicated that the Council requested, at the October 15, 2003 meeting, that staff take a further look at the programming possibilities within the indoor recreation center. She identified the following seniors' recommendations: 1) The seniors would like to see a policy that the center is to be opened Monday through Friday, 8 a.m. to 2 p.m. to accommodate the senior nutrition as a drop in program. 2) Other areas would be an open senior component. 3) Specialized programming costs to be passed on to the senior users. 4) General areas of the center to be made available to the senior community (e.g., pick up game in the basketball area, swim area). 5) If seniors to partake in swim lessons or aerobics and there is an instructor cost, the cost is to be passed on to senior users. 6) Senior residents may be required to purchase a yearly pass card at a minimum rate (e.g., \$10 per year). Non resident charge to be determined. 7) Programming spaces have been accommodated as identified this evening that includes a warming kitchen. 8) The seniors agreed to an intergenerational shared use of the computer room. She indicated that the youths recommendation include the following: 1) Dedicated space on the youth wing on a drop in basis. 2) The youth between 10-13 year olds would like to be separated from the 14-17 year olds. Therefore, programming hours need to be discussed to accommodate the two age needs. Also, discussed were non resident teens joining the community teens. 3) Youths would like to share their game space during the day. 4) Student discounts, recognizing which students would be allowed to participate in the drop in program. She stated that the Senior Advisory Committee would like to continue discussions on the development of a programming policy that would be brought back to the Council. She indicated that the seniors would like to utilize portions of the Community Center that would not be an impact to staff or the City's operating costs. Staff has agreed to return to discuss policies and implement programs at the Community Center with the youth of the community. She indicated that she sent an e-mail to the YTRS groups which are the youth and teen coordinators and supervisors; receiving information from these groups. She said that they were pleased to hear that the City is proposing a dedicated computer room.

Mayor Kennedy opened the floor to public comment.

Mark Grzan expressed concern regarding the teen center based upon his contact with the recreation community, particularly his own personal experience as a recreation administrator for the City of Sunnyvale. In looking at the design being presented this evening, they are similar to the one designed by the City of Sunnyvale. He indicated that there were few teens that used the Sunnyvale facility and that the City of Sunnyvale eventually closed the facility. When this occurred, there was a public up roar. The City of Sunnyvale kept its center open for just a little bit longer, but again, no teens showed up, resulting in the closure of the facility once again. He noted that the City of Sunnyvale does not have a current teen program but opened up a teen café not too long ago and then closed it. In calling other communities to see what they had in terms of teen programs, he found that they do not have a strong teen program because this is a difficult population to program based on the transient nature and the types of activities youths are into. He inquired how youths would access the center, how many youths would be accommodated, and what activities would be planned for the youth. He said that the City of Sunnyvale conducted a study and found that teen programs were successful if held at schools. He did

not know how 12-15 year old youths would access the facility. He felt that a lot of money is being spent on a traditional teen model that may not be successful in Morgan Hill and the City may be faced with having a facility for teens that is not utilized. He requested that the City study this issue further. He recommended that staff be directed to investigate what surrounding cities are doing for teens; what they have found to be successful; and what was found not to be successful. It was his hope that more information could be brought back to the Council as he was not sure that this was the right direction to go.

John Brice, 995 La Vista Court, indicated that he used to work for the City of Brisbane. This City opened up a teen center. From the day that the facility opened, the facility was packed and used by the youth. He said that his 13-year old daughter cannot wait for this facility to open up.

No further comments were offered.

Council Member Tate complimented Ms. Tam for her ability to incorporate youth and senior comments into the design of the facility. He felt that the facility has come a long way and was pleased to see that the computer room was incorporated into the design. He stated that he shared some of the concerns as expressed by Mr. Grzan and that he understands the possibility of success as addressed by Mr. Brice. He recommended that the City sample different types of programming for the youth to see what they would endorse.

Mayor Kennedy said that he and Council Member Tate have been talking to individuals in the community about a possible interim youth center. He said that there is a commitment for one location at the Tennant Station Shopping Center. As he looks at the plan for the youth center, he sees foosball, pool tables, and game activities. If the City is able to acquire some of this equipment early, the City can start some of the programming at an interim center to get a sense of what works/does not work, providing activities for youth at this time. This would give the youth a place to go, noting that there is no place for the youth to recreate. He stated that he and Council Member Tate are looking at options for a temporary facility.

Mayor Pro Tempore Sellers indicated that the indoor recreation subcommittee is considering the concerns raised by Mr. Grzan. He said that John Remy with the YMCA has been a very active participant. He indicated that Mr. Remy pointed out that in the opening of a similar facility; the use was slower than hoped. He became anxious and some of the YMCA Board members were questioning the facility. The facility built on itself and is now an extremely popular facility. He noted that the City would be offering a wide variety of activities that would be made available and will be utilized, such as the computer component, providing a mutual variety of activities. He stated that he would like to work with the entire Council, returning to the subcommittee to discuss how it can make some of the components take place earlier so that it is better on the day the facility is opened.

Council Member Carr stated that he too had the access concerns and whether the teens will show up to use the teen center. He was pleased to hear Mr. Brice's comments confirming that there are places where teen centers are successful. He requested that staff investigate how the site would be accessed by the youth, identifying the closest bus stop, and what can be done with VTA to make the bus stop closer

to the facility. He wanted to know what the youth population would be within an acceptable walking distance and what the safe routes to the site are. Can these routes be highlighted, making them safer (e.g., trails along the creek, access to Paradise Valley). He requested that Ms. Tam and her team take a look at alternative uses for the space should the facility not be used by youth. He recommended that thought be given to alternative use(s) in case the City needs to revamp some of the site in a few years. He stated that it sounds like the programming workshops went well. The Council now has some programming ideas on how the intergenerational space will work. He inquired as to the timeline based on the ongoing discussions about the library. He felt that there will be a day that the Redevelopment Agency/Council will need to make some very difficult and real decisions about dollars. He expressed concern about moving forward too quickly on this project without knowing the timeline of when Council Member Tate would be returning to the Council with his ideas on the library. The sooner the Council addresses this issue, the better off the City will be.

Mayor Kennedy said that as soon as possible after the first of the year, a meeting will be held to discuss library alternatives.

Council Member Tate said that the library subcommittee is trying to put together library alternatives. The library subcommittee would like to present the scenarios to the public and receive feedback. He felt that the library subcommittee could get some library scenario information back to the Council along the February 2004 timeframe and receive public input in March 2004.

Council Member Carr felt that the library subcommittee would return with whatever the library plan would entail and would include more Redevelopment Agency dollars than originally earmarked for the library. He expressed concern as to where these dollars would come from.

Council Member Tate said that the library subcommittee is making the assumption that they are living with the \$5.5 million earmarked for the library from Redevelopment Agency funds and other funding sources that would take the total cost to approximately \$7 million.

Council Member Chang stated that the City has some Measure P monies coming in from development fees (e.g., park maintenance, public facilities, etc.). She recommended that the current library site be expanded, using the \$7 million and looking at funds from Measure P developer fees that are unallocated to date.

Mayor Kennedy said that the library subcommittee is looking at four different scenarios. The one identified by Council Member Chang is one of the scenarios: expanding the existing library. The subcommittee is proposing to narrow down the viable options, looking at ways to leverage funds that exist. He said that the subcommittee has not spent too much time looking at other funding sources. He felt that Council Member Chang's suggestion was a good one and should be explored.

Council Member Tate recommended that the discussion of whether the City can look at other funding sources within or without the RDA be agendized.

Council Member Carr felt that the library subcommittee should be able to expend beyond what has been earmarked out of the RDA funds to date. He inquired as to the next mile stone?

Deputy Director of Public Works Struve said that the next mile stone would be returning to the Council with 100% approval of the design development. He said that architectural monies are being spent on this project.

Council Member Carr noted that it was indicated in the staff report that by late February or March 2004 there would be approval of the design development. However, if the Council was to state that it wants to push this time approval back and hold off on spending more money until such time the Council has the other discussion, he inquired whether this would throw the project off six months or three-four weeks.

City Manager Tewes said that if at the presentation of the design development drawings the Council concludes that it is not the project that it wants, it would throw the schedule off by more than a month. He said that the reason that staff is proceeding with this schedule is attributable to the fact that a majority of the Council directed staff to follow this schedule.

Mayor Pro Tempore Sellers said that the funds that have been expended to date will not result in a significant increase in the amount that would be expended. He stated that there are already commitments made and expenditures allocated. Therefore, getting to this point will not cost the City a lot more in terms of dollars than have already been spent. However, it will cost the project momentum. He also felt that it was a good faith effort as individuals have been hired to perform a job. He felt that these individuals have other commitments and other subcontractors trying to work through the drawings as well. He did not believe that it was a financial issue but would be a significant change in direction if this was to happen. He recommended that the City continue on the course of action with the understanding that there would be a discussion that would take place within the next few weeks.

Mayor Kennedy recommended that Council Member Tate/staff return with the library report in January 2004.

Council Member Carr felt that the sooner that Council Member Tate returns to the Council with library information, the better off the Council will be.

Council Member Tate felt that a broader discussion needs to take place than what the City is working on at this time. He said that parameters have to be placed around all the alternatives being looked at irregardless of the funding.

Action: *By consensus, the City **Received** the Staff Report on Senior and Youth Building Spaces and Programming Workshop; and **Directed** staff to agendize the Library Subcommittee report at the later part of January 2004.*

38. REPORT FROM MEMBERS OF THE CITY/SCHOOL LIAISON COMMITTEE REGARDING JOINT PLANNING FOR CITY AND SCHOOL FACILITIES

Council Member Carr indicated that he, Council Member Tate and City Manager Tewes took this item to the City-School Liaison Committee to form a joint task force to talk about facilities and joint planning for city and school facilities. He noted that the School District and the City have facility needs. If there are ways to be thinking about these needs together it is felt that both agencies would be better off. It is hoped that it would be tight in scope and short in duration so that the Committee can move along and return to both agencies with recommendations. He informed the Council that the School approved this item Tuesday night at their special meeting and appointed two board members with the parameters identified.

Council Member Chang indicated that her office is located next door to Britton Middle School. She inquired whether she could discuss this item.

Mayor Kennedy clarified that discussion is not just about the library site but of all public facilities.

Council Member Carr indicated that the Britton Middle School would be a large part of the discussion as it is a significant piece of property located in the middle of the downtown. If there are things that the City should be talking with the School District about when the new high school opens and they transfer students from this site, he felt that these discussions should be taking place sooner rather than later.

City Attorney Leichter said that the only action being taken this evening is appointing two members to serve on this committee that will be charged with a very broad scope. However, should Council Member Chang feel that it is reasonably foreseeable that what happens as a result of this committee would have a material financial affect upon the value of her property; it would be up to her to decide whether to step down. She did not see an immediate direct conflict at this time but that there is a potential for an indirect conflict of interest in the future.

Council Member Chang stated that she was not sure where all the money is coming from in working with the School District. If the School District is unloading facilities, it may mean that the City is buying/acquiring facilities.

Council Member Carr said that his interest in bringing this to the City-School Liaison Committee and getting their approval and bringing it to the Council this evening is attributed to the fact that there are actions taking place that the City and the community is missing out on. He felt that filling in the swimming pool at Britton Middle School was a mistake but that the School District did not have any other options. This action took place so quickly that the City was not able to have a discussion with the School District about this action. He felt that there were School District actions that will be taking place that will be affecting the City. The City will also be taking actions that may be affecting the School District as well. The thought was to see if a process can be put together to talk about facilities. He noted that not being discussed is dollars or acquiring property. He felt that the City should be talking to the School District about what the City is doing and vise versa to see how best to coordinate these efforts.

Mayor Pro Tempore Sellers expressed an interest in serving on this committee and helping in this effort.

Mayor Kennedy indicated that he discussed appointment to this committee with Council Member Tate. He recommended that the City-School Liaison Committee Council members serve on this committee (Council Members Carr and Tate).

Mayor Pro Tempore Sellers requested that opportunity be given to Council members to provide input to this committee.

Mayor Kennedy indicated that there are four scenarios for the library: 1) the Britton Middle School site, 2) the Sunsweet property in the downtown, 3) expansion of the current facility; or 4) build a new library at the civic center site.

Mayor Kennedy opened floor to public comment. No comments were offered.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the Council unanimously (5-0): 1) **Approved** the Formation of a Joint Planning-Working Group on School and City Facilities; and 2) **Ratified** the Mayor's appointment of Council Members Carr and Tate to serve on the Joint Planning-Working Group.*

39. AGREEMENTS FOR FINANCIAL ADVISORY AND BOND COUNSEL SERVICES IN CONNECTION WITH POLICE FACILITY FINANCING

Director of Finance Dilles presented the staff report.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Authorized** the City Manager, on behalf of the City, to Enter Into an Agreement with RBC Dain Rauscher Inc. for Financial Advisory Services.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Authorized** the City Manager, on Behalf of the City, to Enter Into An Agreement with Richards, Watson & Gershon for Bond Counsel/Disclosure Counsel Services.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Mayor Pro Tempore Sellers requested clarification as to the Council's January 2004 meeting schedule. He noted that the Council agreed to meet on January 14 and January 28, 2004. He indicated that he would prefer not to meet on January 21, 2004 unless there is a reason to meet.

City Manager Tewes informed the Council that it previously cancelled the meeting of January 21, 2004 because at the time, the Council thought it was going to an offsite conference. He noted that this is no longer the case and that the January 21, 2004 date is available for a meeting. He indicated that he is aware of at least two other items that Council members have indicated to the public that it wanted to

hear on January 21: 1) the medical services objectives; and 2) the water rate increase public hearing. He said that there is a third item that relates to the adoption of second readings of ordinances. If the Council does not meet on January 21, 2004, a regular meeting date, it would result in the ordinances introduced this evening not being adopted until February 2004. Individuals affected by the zoning and development matters may be concerned about the fact that the ordinance would not be adopted until February 2004.

Council Member Chang indicated that she has a scheduling conflict the last week of January 2004.

Action: *By consensus, the Council **agreed** to hold it's regularly meeting of January 21, 2004 and cancelled its January 28, 2004 meeting.*

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 10:36 P.M.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY